

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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THE CITY OF NEW YORK,

Plaintiff,

CIVIL ACTION NO. 22-CV-
5525

-against-

ARM OR ALLY LLC, RAINIER ARMS, LLC, SALVO
TECHNOLOGIES, INC. d/b/a “80P BUILDER,” ROCK
SLIDE USA, LLC, and INDIE GUNS LLC,

**AMENDED COMPLAINT
FOR INJUNCTIVE RELIEF**

Defendants.
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Plaintiff the City of New York (the “City”) by and through its attorney, Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, alleges upon personal knowledge as to itself and upon information and belief as to all other matters as follows:

INTRODUCTION

1. This is an action to end the tide of illegal “ghost guns” flowing into New York City. Ghost guns are unserialized, user-assembled firearms named for their most desired feature—invisibility to law enforcement. Ghost guns are deliberately sold without the federally-mandated serial number that enables law enforcement to trace to purchasers the firearms recovered at crime scenes. That feature alone makes the guns attractive to the criminal market bent on evading detection. Worse yet, ghost guns are sold online without the background checks legally mandated for all gun sales in New York, making them still more attractive to an illicit market of felons, domestic abusers, children – anyone barred by law from acquiring guns.

2. Ghost guns and their central component, so-called “unfinished” or “80%” frames or lower receivers, are illegal to sell or possess under New York City and New York State law, and constitute a statutory and common law public nuisance, which defendants cause and to which

they contribute. Defendants hawk ghost gun components over the internet to New York City residents, thwarting federal, state and local firearms laws.

3. Ghost gun sellers operate on the pretense that their products are not firearms because they are “unfinished” and hence when sold require neither serial numbers nor background checks. Defendants’ business model is to sell “unfinished” frames to persons who, following Defendants’ simple instructions, will “finish” them, and – by adding the remaining components Defendants also provide – assemble fully operational weapons.

4. New York City is experiencing the entirely predictable result of Defendants’ lawless behavior: exponentially-increasing numbers of untraceable ghost guns used in crimes in the City, including multiple murders and other crimes of violence, often committed by persons could never legally acquire a conventional firearm in the first place.¹ Felons and other prohibited or unlicensed possessors of guns also amass large caches of untraceable weapons;² a ghost gun has even been brought to school by a high school student.³

5. Incidents involving ghost guns reflect a dangerously escalating trend, from 17 ghost guns recovered in arrests in 2018, to 48 in 2019, 150 in 2020 and 263 in 2021. The recovery by

¹ Reuven Fenton, Joe Marino and Jorge Fitz-Gibbon, ‘Ghost gun’-obsessed Taco Bell staffer returned to work after fatal shooting: *DA*, N.Y. Post (May 4, 2022), available at <https://perma.cc/Q8SX-AWFW> (captured May, 17, 2022); Larry Celona, Tina Moore, Kevin Sheehan and Jorge Fitz-Gibbon, *This is the ‘ghost gun’ tied to the shooting of a Bronx teenager*, N.Y. Post (April 10, 2022), available at <https://perma.cc/2XCX-U3X3> (captured May 6, 2022); *NYPD: 5 Shot, Including Suspect, After Fight Breaks Out As Bars Close In Upper Manhattan*, CBS News New York (Sept. 27, 2021), available at <https://perma.cc/3TE3-EEET> (captured May 17, 2022); *3 Men Shot As Groups Clash Outside Manhattan Recording Studio*, CBS News New York (November 17, 2021), available at <https://perma.cc/SDS5-84LZ> (captured May 17, 2022).

² Press Release, *Queens Man Charged With Possessing Arsenal of Illegal “Ghost” Guns*, Queens County District Attorney (Dec. 9, 2021), available at <https://perma.cc/7C9D-XJ4L>; see also <http://www.brooklynnda.org/2022/04/22/bushwick-man-indicted-for-illegal-possession-of-ghost-guns/>; Ben Feuerherd, *NYC man allegedly kept ‘arsenal’ of ‘ghost guns’ and ammo in Brooklyn home*, N. Y. Post (Oct. 4, 2021), available at <https://perma.cc/X6KF-3DP9>; *United States v. Gary Brown*, Criminal Docket No. 20-352 (E.D.N.Y.) (ECF No. 26, Sentencing Memorandum, filed Oct. 14, 2021).

³ *Student arrested with gun, \$30K cash in backpack at Brooklyn high school*, ABC7 NY Eyewitness News (Dec. 2, 2021), available at <https://perma.cc/8RSL-GNRS>.

NYPD of 263 ghost guns in 2021 arrests represents a fifteen-fold increase over the 17 ghost guns recovered in 2018. NYPD's 2022 ghost gun recoveries are on pace to exceed the 2021 total, with 175 ghost guns recovered via arrests through June 14, 2022, approximately 9% of the guns recovered by the NYPD during arrests.

6. Nationally, the federal government estimates that between 2016 and 2021, law enforcement recovered more than 45,000 ghost guns from crime scenes, including 692 murder or attempted murder scenes. The annual totals recovered increased ten-fold during the course of the six-year period considered by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF"),⁴ bearing in mind that these numbers are limited to recovered ghost guns; countless more remain on the streets or in homes—unlicensed, untraceable, and invisible to law enforcement.

7. Defendants' illegal conduct thus results in a proliferation of unserialized, untraceable, unlawful ghost guns in the City's streets and homes, making the City more dangerous for both the public and for law enforcement, causing a quintessential public nuisance. The Court should order Defendants to cease immediately their sales and deliveries into New York City and abate the nuisance by providing the City with the information needed for law enforcement to recover these unlawful, dangerous, and untraceable weapons.

JURISDICTION AND VENUE

8. The Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332 because the City and each Defendant are citizens of different States and the value of the injunctive relief sought from each Defendant exceeds \$75,000, excluding interest and costs.

9. Venue is proper in this district under 28 U.S.C. § 1391(b) because a substantial part of the events and omissions giving rise to the claims occurred in this district.

⁴ ATF, Final Rule, "Definition of 'Frame or Receiver' and Identification of Firearms," Fed. Reg. Vol. 87. No. 80, 24652, 24656 (April 26, 2022).

PARTIES

10. Plaintiff the City of New York (the “City”) is a municipal corporation organized under the laws of the State of New York.

11. Defendant Arm or Ally LLC (“Arm or Ally”) is a Missouri limited liability company headquartered in Kansas City, Missouri, with a principal place of business at 1803 NW 93rd Terrace, Kansas City, MO 64155. Arm or Ally has two members/owners: Geoffrey Poitras and James F. Tobin. Mr. Poitras is a resident of and is domiciled in the State of Missouri and Mr. Tobin is a resident of and is domiciled in the state of North Carolina. Arm or Ally is therefore a citizen of the State of Missouri and the State of North Carolina for purposes of diversity jurisdiction.

12. Defendant Rainier Arms, LLC (“Rainier Arms”) is a Washington limited liability company headquartered in North Auburn, Washington, with a principal place of business at 2504 Auburn Way, North Auburn, WA 98002. Rainier Arms has one member/owner: John Hwang. Mr. Hwang is a resident of and is domiciled in the State of Washington. Rainier Arms is therefore a citizen of the State of Washington for purposes of diversity jurisdiction.

13. Defendant Salvo Technologies, Inc., (“80P Builder”) is a Florida corporation headquartered in Clearwater, Florida, with a principal place of business at 711 Pinellas St., Clearwater, FL 33756 and doing business as 80P Builder, which is based in Largo, Florida and has a principal place of business at 10781 75th Street, Largo, FL 33777.

14. Defendant Rock Slide USA, LLC (“Rock Slide USA”) is a North Carolina limited liability company headquartered in Broadway, North Carolina, with a principal place of business at 303 N. Main St., Broadway, NC 27505. Rock Slide USA has one member/owner: Ian O. Frampton. Mr. Frampton is a resident of and is domiciled in the State of North Carolina. Rock Slide USA is therefore a citizen of the State of North Carolina for purposes of diversity jurisdiction.

15. Defendant Indie Guns, LLC (“Indie Guns”) is a Florida limited liability company headquartered in Orlando, Florida, with a principal place of business at 3000 Huntington St. Orlando, FL 32803. Indie Guns has two members/owners: Lawrence Destefano and Raymond Villafane. Mr. Destefano and Mr. Villafane are residents of and are domiciled in the State of Florida. Indie Guns LLC is therefore a citizen of the State of Florida for purposes of diversity jurisdiction.

FACTUAL ALLEGATIONS

I. Ghost Guns are Untraceable Firearms Intended to Evade Gun Control Laws.

16. Defendants market and sell firearm components from which purchasers quickly and easily build fully functional weapons. Ghost guns have the same deadly force as a conventional firearm and are designed to resemble, and be compatible with, the current popular firearms offered by traditional firearms manufacturers, such as semi-automatic Glock handguns, and AR-10 and AR-15 assault rifles. But ghost guns are untraceable and designed to evade background checks, licensing, and other state and local rules governing sales, making the weapons extremely attractive to criminals and dangerous to the public. As San Diego’s Police Chief has put it, “We work so hard in ensuring that individuals pass background checks and are responsible gun owners. And that really gets thrown out the door when you have individuals that can just make a homemade gun.”⁵

17. The absence of serial numbers makes the investigation of crimes committed using ghost guns far more difficult. As the United State House Committee on Homeland Security concluded in a 2019 report, “[g]host guns not only pose a challenge on the front end, enabling

⁵ Alain Stephens, Ghost Guns are Everywhere in California, The Trace (May 17, 2019), <https://www.thetrace.org/2019/05/ghost-gun-california-crime/>.

prohibited buyers to purchase deadly weapons with just a few clicks online, but also on the back end, hamstringing law enforcement’s ability to investigate crimes committed with untraceable weapons.”⁶ ATF itself has explained that the absence of serial numbers “makes it more difficult for Federal, State, and local law enforcement to identify and prosecute illegal firearms traffickers who are often tied to violent criminals and armed narcotics traffickers.”⁷

A. Defendants market and sell gun frames and receivers in a not-quite-finished state, to skirt federal gun laws and regulations.

18. The core component of any gun, including a ghost gun, is the frame, also known as the lower receiver. The frame or lower receiver⁸ houses all or most of the gun’s other essential components, including the trigger, magazine, slide, and barrel.

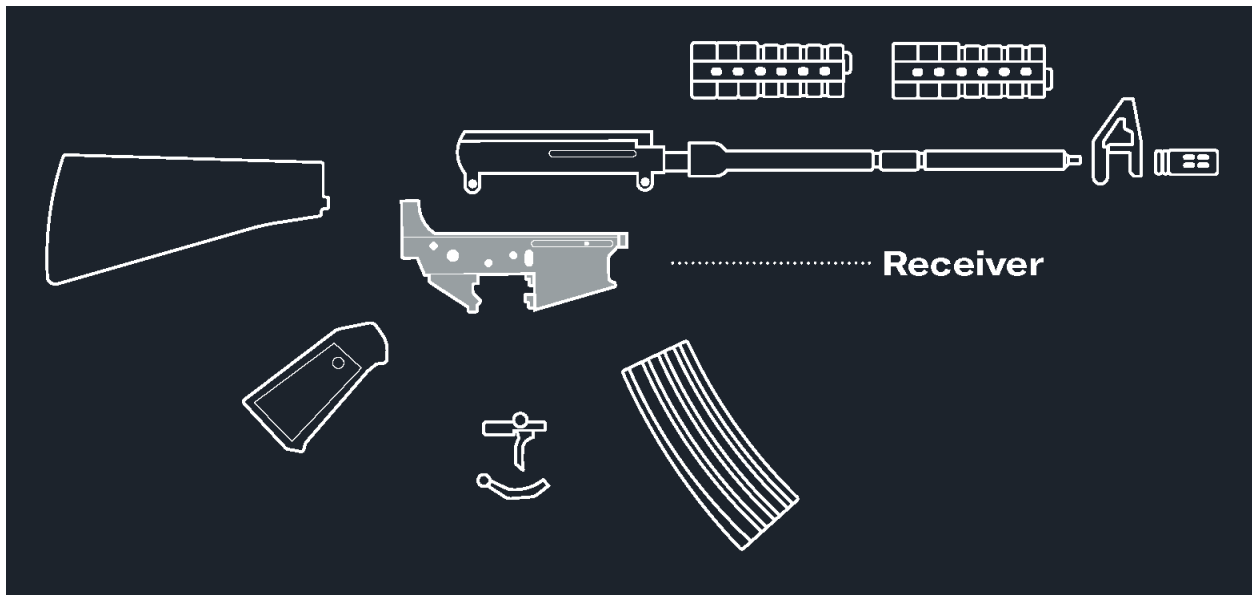
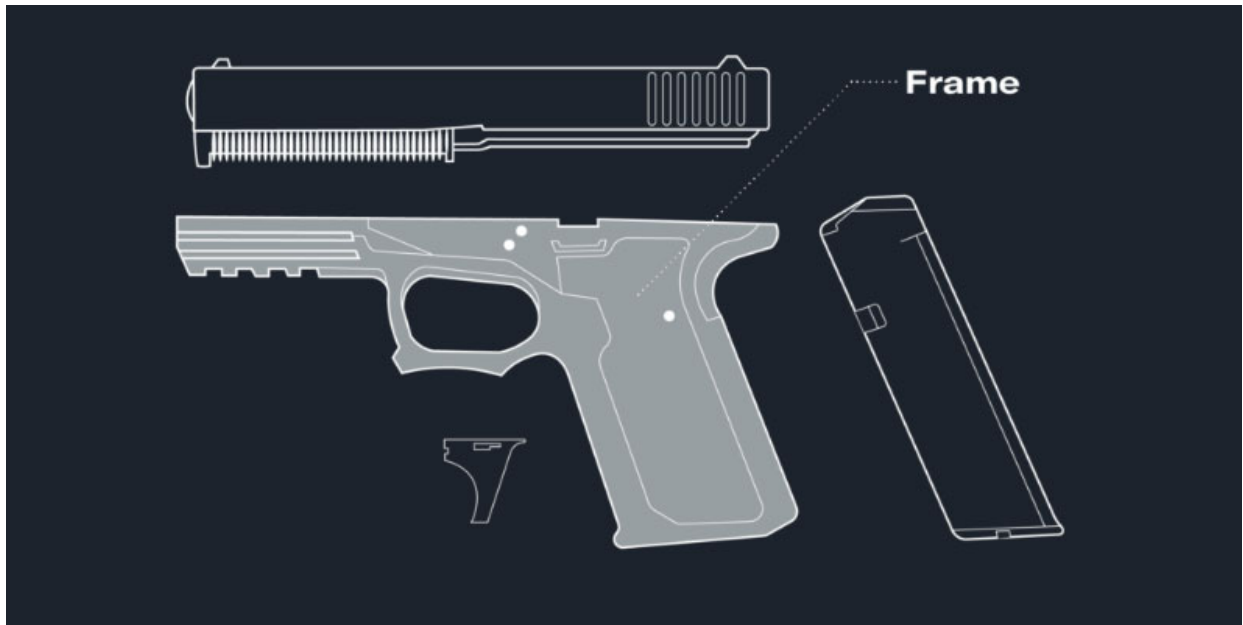
19. The image below shows the parts of a simulated Glock ghost gun—the most commonly-recovered type of ghost gun in New York City—with the frame shown in light gray,

⁶ ATF, Notice of Proposed Rulemaking, “Definition of ‘Frame or Receiver’ and Identification of Firearms,” Fed. Reg. Vol. 86, No. 97, 27220, 27223 (May 21, 2021) (quoting H.R. Rep. No. 116-88, at 2 (May 28, 2019)).

⁷ ATF, Notice of Proposed Rulemaking, “Definition of ‘Frame or Receiver’ and Identification of Firearms,” Fed. Reg. Vol. 86, No. 97, 27220, 27225 (May 21, 2021).

⁸ The term “frame” is typically used for handguns, while “receiver” or “lower receiver” is typically used for longer guns, such as AR-15s.

and the parts required to finish the gun shown in black.⁹ Below that is an image that shows the parts of a ghost assault rifle.



20. Under federal law, a frame or lower receiver is regulated in the same way as a complete firearm. Indeed, federal law defines “firearm” to include a complete (or near complete)

⁹ Everytownresearch.org, *Untraceable: The Rising Specter of Ghost Guns*, (May 14, 2020), <https://everytownresearch.org/report/the-rising-specter-of-ghost-guns/>.

gun and the “frame or receiver” of a firearm. Specifically, the Gun Control Act defines “firearm,” in relevant part, as:

(A) any weapon ... which will or is designed to *or may readily be converted to* expel a projectile by the action of an explosive; [or] (B) *the frame or receiver of any such weapon.*

18 U.S.C. § 921(a)(3) (emphasis added). A frame or receiver is accordingly subject to the same serialization and federal background check requirements as a complete firearm.

21. Defendants’ business model is to sell so-called “unfinished” frames or receivers to persons who will assemble them into fully operational firearms, using parts or kits purchased from Defendants or other ghost gun dealers. Defendants sell frames or receivers that they claim are partly “unfinished,” or “80%” complete, and thereby purport to skirt the statutory definition of a firearm and avoid the application of federal law and regulation altogether. In fact, as sold by Defendants, frames and receivers are “firearms” because they are “designed to or may readily be converted to expel a projectile by the action of an explosive” or are “the frame or receiver of any such weapon.”

22. Independently, “unfinished” frames and receivers and “80% frames” are illegal under local and state law. Legislatures responded to the ghost gun ruse by expressly so specifying. Sales and delivery of “unfinished” frames or receivers into New York City has been illegal under N.Y.C. Admin. Code § 10-314 since February 2020, and under N.Y. Penal Law §§ 265.60-.64 since April 26, 2022.

23. By purporting to sell “unfinished” frames and receivers to consumers without background checks, without serial numbers, and without complying with any other federal, state,

and local laws governing firearms, Defendants assist and facilitate the evasion of federal, state and local laws banning the sale or possession of “unfinished” frames and receivers.

24. Indeed, evasion of regulation is the core of Defendants’ business model. The appeal of ghost guns is rooted largely, if not entirely, in their purported status as outside the reach of the firearms laws. Polymer80, Inc., the dominant ghost gun manufacturer in the United States, has admitted in court that if its “80%” frames and receivers were deemed firearms under federal law, sales of its products would decline precipitously: “annual revenue would be diminished by more than fifty (50) percent, and perhaps by as much as seventy-five (75) percent.”¹⁰

25. It is child’s play to turn an “unfinished” frame or receiver into a “finished” frame or receiver, and then assemble a fully functional gun. Defendants make “finishing” still simpler and quicker by selling the “unfinished” frame or receiver in a kit that includes a template (known as a “jig”), drill bits, and other hardware. The jig is a molded case into which the “unfinished” frame or receiver fits, with holes labeled for insertion of drill bits, and with directions about the removal of certain polymer tabs.

26. Step by step instruction manuals, easily accessible on the internet and from ghost gun manufacturers, explain to customers the steps to complete the frame or receiver and assemble an operable firearm using simple tools. *See, e.g.,* Polymer80 Website, “How to,” <https://bit.ly/30GNCOy>. Retailers also provide guidance. *See* Arm or Ally’s Website, “In the comfort and privacy of your own home you can assemble your own firearm for personal-use with nothing more than simple hand-tools,” <https://bit.ly/3a0f9PN>; Rock Slide USA Website, “Polymer

¹⁰ *See* Declaration of David L. Borges in Support of Motion of Polymer80 Inc. to Intervene in this Action, dated Dec. 30, 2020, *City of Syracuse, NY v. Bureau of Alcohol, Tobacco, Firearms and Explosives*, 20-cv-6885 (S.D.N.Y.) (ECF # 80).

80, 80% lowers come with everything needed to make your own custom, Glock compatible pistol at home”, <https://bit.ly/3NpBGTY>.

27. Persons seeking to mass-produce ghost guns can purchase the “Ghost Gunner,” a machine that finishes the frame or receiver still faster and with less work than hand assembly—an especially attractive option for those seeking to traffic ghost guns.¹¹

II. Defendants violate and circumvent, and assist their customers in violating and evading local, state, and federal gun laws designed to protect public safety.

28. The purpose and the result of the ghost gun business model is the easy acquisition of untraceable, operable firearms without compliance with federal, state, and local laws regulating firearms. Defendants intentionally assist their customers in violating those laws, and themselves violate the state and local laws prohibiting the sale of “unfinished” frames and receivers into New York City and State.

A. The Federal Gun Control Act

29. The 1968 federal Gun Control Act regulates the manufacture, sale, and possession of firearms, including frames and receivers. 18 U.S.C. § 921(a)(3). The Gun Control Act requires all commerce in firearms to proceed through federally licensed manufacturers, importers, and dealers, known as federal firearms licensees (“FFLs”), 18 U.S.C. §§ 922(a)(1)(A); 923(a), who in turn must operate in strict conformity with federal, state, and local laws pertaining to firearms.

30. To ensure that all firearms may be traced to the first purchaser, federal law requires licensed manufacturers and importers to inscribe a serial number on the frame or receiver of each firearm they manufacture or import. 18 U.S.C. § 923(i).

31. To prevent the acquisition of firearms by people deemed unfit to possess them, licensed dealers may not sell or transfer a firearm to specified prohibited persons, as determined

¹¹ See <https://ghostgunner.net/>, also available at <https://perma.cc/55AU-AEUA>.

through a mandatory background check. 18 U.S.C. § 922(d), (t). Prohibited persons include, among others, individuals who: i) have been convicted of a felony; ii) have been convicted of any crime of domestic violence or are subject to a domestic violence restraining order; iii) have been involuntarily committed to a mental health facility or adjudged “mentally defective”; iv) have been dishonorably discharged from the military; or v) are unlawful users of controlled substances. 18 U.S.C. § 922(d), (g). FFLs may not sell or transfer rifles or shotguns to anyone under the age of 18, or other types of firearms to anyone under 21. 18 U.S.C. § 922(b)(1).

32. To curb gun trafficking or transfers of guns to prohibited persons, federal law prohibits FFLs from shipping firearms to purchasers, and requires all firearm sales be conducted in person except in very limited circumstances requiring, among other things, notice to law enforcement. 18 U.S.C. §§ 922(a)(2), (c). FFLs may not sell or deliver a firearm to any person where the purchase or possession violates any applicable state or local law, 18 U.S.C. § 922(b)(2), or to persons that do not reside in the state of the dealer’s place of business, except for in-person sales of rifles or shotguns that fully comply with both states’ laws. 18 U.S.C. § 922(b)(3).

33. Licensed manufacturers and dealers must keep records of all firearm sales, noting the make, model, and serial number of the firearm, as well as the “name, age, and place of residence” of the purchaser. 18 U.S.C. §§ 922(b)(5), 923(g)(1)(A). FFLs may not sell a firearm without providing the recipient with a secure gun storage or safety device. 18 U.S.C. § 922(z).

34. On April 26, 2022, ATF published a final rule, effective August 24, 2022, stating that the “unfinished” frame and receiver kits Defendants sell are firearms under the Gun Control Act. *See* ATF, Final Rule, “Definition of ‘Frame or Receiver’ and Identification of Firearms,” Fed. Reg. Vol. 87. No. 80, 24652, 24673 (April 26, 2022)(“Final Rule”). The Final Rule explains that “a frame or receiver parts kit containing a partially complete ... blank of a frame or receiver

that is sold, distributed, or possessed with a compatible jig or template is a frame or receiver, as a person with online instructions and common hand tools may readily complete or assemble the frame or receiver parts to function as a frame or receiver.” *Id.* at 24739; *see also id.* (“The terms ‘frame’ and ‘receiver’ shall include a partially complete, disassembled, or nonfunctional frame or receiver, including a frame or receiver parts kit, that is designed to or may readily be completed, assembled, restored, or otherwise converted to function as a frame or receiver.”)

35. The Final Rule nullifies prior informal ATF guidance, set forth in determination letters to a ghost gun manufacturer, finding that certain examples of “unfinished” “80%” frames or receivers, when considered in isolation, did not constitute firearms under federal law. ATF’s Final Rule is consistent with, and correctly interprets, the federal Gun Control Act.¹²

B. New York State Law

36. Since April 26, 2022, New York State law has expressly prohibited the possession, sale, or offering for sale of ghost guns and “unfinished” or unserialized frames or receivers by or to persons in New York State. *See* N.Y. Penal Law §§ 265.00(6) (defining “dispose of”), (8-a) (defining “serialized”), (32) (defining “unfinished frame or receiver” and “ghost gun”), 265.01(9) (prohibiting possession of ghost guns), (10) (prohibiting possession of unserialized or “unfinished” frame or receiver), 265.07 (registration and serialization of firearms, rifles, shotguns, finished frames or receivers, and “unfinished” frames or receivers), 265.60 (criminal sale of a ghost gun in

¹² In addition, in a May 9, 2022 letter to a ghost gun components retailer, ATF explained that, “notwithstanding the recently announced regulations and definitions” in the final rule, it has “always been” ATF’s position that the sale and transfer to a single customer of “all the components necessary to produce a fully functional firearm,” whether sold in “one or multiple transactions,” constitutes the sale of a “firearm” under the Gun Control Act and is unlawful unless made according to the requirements of the Gun Control Act, including serialization and a background check. *See* May 9, 2022 letter from Matthew Varisco, Special Agent in Charge, ATF Philadelphia Field Division to JSD Supply, available at <https://perma.cc/YU47-TGPL> (captured May 13, 2022).

the second degree), 265.61 (criminal sale of a ghost gun in the first degree), 265.63 (criminal sale of a frame or receiver in the first degree).

C. New York City Law

37. Since February 2020, New York City law has prohibited the possession, sale, transfer, or offering for sale of an “unfinished frame or receiver” by or to a person in New York City. N.Y.C. Admin. Code § 10-314; *see id.* § 10-301(8). An “unfinished frame or receiver” is defined as a “piece of material that does not constitute the frame or receiver of a firearm, rifle, shotgun, or assault weapon, but that has been shaped or formed in any way for the purpose of becoming the frame or receiver of a firearm, rifle, shotgun, or assault weapon with modification by the user and that is not engraved with a serial number” N.Y.C. Admin. Code § 10-301(22).

III. Ghost Guns Endanger the Public and Undermine Law Enforcement

38. Despite—and in a direct affront to—New York City’s adoption of a ghost gun ban, ghost guns are flooding the City, and their prevalence is increasing at an alarming rate. The NYPD seized 17 ghost guns in connection with arrests in 2018, 48 in 2019, 150 in 2020, 263 in 2021 and through June 14, 2022, 175—a pace that will exceed by far the 2021 total. Approximately 9% of all guns recovered in 2022 by the NYPD incident to arrests have been ghost guns.

39. These numbers are limited to ghost guns recovered by NYPD. The actual number of ghost guns on New York City’s streets and in homes is undoubtedly far higher, but impossible to know—ghost gun sellers do not report sales.

40. Ghost guns make New York City’s streets, schools, public spaces, and homes—and NYPD patrol officers’ jobs—significantly more dangerous. In 2021, for example, the NYPD recovered ghost guns from arrestees while responding to the full spectrum of life-threatening events: shootings, robberies, domestic violence incidents, executing search warrants, conducting street and car stops, accidental shootings and an incident of road rage. In one instance, a 17-year-

old was caught attempting to enter his Brooklyn high school with a ghost gun and \$30,000 in his backpack.¹³

41. Ghost gun arsenals and assembly lines are springing up around the city, creating what the Queens County District Attorney has called a “Polymer pipeline,” named for the polymer plastic used in most ghost gun frames.¹⁴ Between August and December 2021, five separate ghost gun arsenals were seized by law enforcement in Queens, NY, including an arsenal belonging to a 20-year old man—too young to lawfully possess handguns—that included 25 ghost guns (19 semi-automatic handguns, five assault weapons, and one semi-automatic shotgun) along with 31 large-capacity magazines, 670 rounds of ammunition, and parts and equipment to assemble several additional ghost guns.¹⁵ The five Queens seizures netted a total of 51 completed ghost guns, including 31 handguns, 17 assault weapons, two machine guns, and one semi-automatic shotgun, along with 91 “unfinished” frames or receivers, 222 high-capacity magazines, four rapid-fire modification devices, and over 30,000 rounds of ammunition.¹⁶

42. Another ghost gun arsenal—consisting of enough parts to make 14 ghost guns, and a “Ghost Gunner” device to speed up the assembly process, along with multiple high-capacity magazines, 850 rounds of ammunition, and other weapons—was found strewn about the toddler-

¹³ *Student arrested with gun, \$30K cash in backpack at Brooklyn high school*, ABC7 NY Eyewitness News (Dec. 2, 2021), available at <https://perma.cc/8RSL-GNRS>.

¹⁴ Press Release, “Queens Man Charged With Possessing Arsenal of Illegal “Ghost” Guns,” Queens County District Attorney (Dec. 9, 2021), available at <https://perma.cc/7C9D-XJ4L>.

¹⁵ Press Release, “Queens Man Charged With Possessing Arsenal of Illegal “Ghost” Guns,” Queens County District Attorney (Dec. 9, 2021), available at <https://perma.cc/7C9D-XJ4L>.

¹⁶ *See id.*

occupied Brooklyn home of a convicted felon barred from purchasing or possessing firearms following a conviction for manslaughter.¹⁷

43. On May 25, 2022, the New York County District Attorney announced the seizure of yet another significant ghost gun arsenal, divided between locations in Manhattan and Brooklyn. A search warrant executed for a Manhattan storage unit netted 29 lower receivers, and over 293 high capacity magazines, capable of holding over 8600 bullets. The joint District Attorney-NYPD investigation that culminated in the seizure revealed that between March 2020 and March 2022, the defendant purchased over \$20,000 in ghost gun parts and kits, high capacity magazines, and related gear from eleven online retailers, including Defendant Arm or Ally.¹⁸

44. Ghost guns have also been used to perpetrate violent crimes on city streets, including multiple murders and non-fatal shootings. For example, in May 2022, a ghost-gun obsessed man, Edison Cruz, allegedly used a ghost gun to kill a man on a Bronx street, and injure two bystanders, after a confrontation in a fast-food restaurant.¹⁹ Cruz had a lengthy criminal history, including multiple prior arrests for possessing ghost guns that he ordered online. These arrests included one while he was subject to an order of protection obtained by his parents which prohibited him from possessing any firearms, and another after he was found walking through the Bronx with a bulletproof vest and a grenade launcher. A search of his Bronx home revealed two

¹⁷ Ben Feuerherd, *NYC man allegedly kept 'arsenal' of 'ghost guns' and ammo in Brooklyn home*, N. Y. Post (Oct. 4, 2021), available at <https://perma.cc/X6KF-3DP9>; see also *United States v. Gary Brown*, Criminal Docket No. 20-352 (E.D.N.Y.) (ECF No. 26, Sentencing Memorandum, filed Oct. 14, 2021).

¹⁸ *People of the State of New York v. Rene Loyola*, Indictment No. 71721-22 (NYSC, Part 42) (Statement of Facts, filed May 25, 2022).

¹⁹ Reuven Fenton, Joe Marino and Jorge Fitz-Gibbon, *'Ghost gun'-obsessed Taco Bell staffer returned to work after fatal shooting: DA*, N.Y. Post (May 4, 2022), available at <https://perma.cc/Q8SX-AWFW> (captured May, 17, 2022).

“unfinished” handgun frames, and tools and parts to assemble them.²⁰ There is evidence that Cruz made at least two online purchases from Defendant 80P Builders in 2021.

45. Just a month earlier, in April 2022, a 17-year old allegedly shot and killed a 16-year old girl on a Bronx street and injured two other teens, using a ghost gun. The victims were all bystanders walking home from school when the shooter opened fire.²¹

46. In November 2021, a ghost gun was recovered at the scene of a shootout between rival groups on a Midtown Manhattan street that injured three people, including a 19-year-old.²² And in September 2021, a man was arrested for attempted murder after allegedly opening fire with a ghost gun outside a Manhattan bar, wounding four people, following a dispute that spilled onto the street.²³ The man himself was shot and wounded by law enforcement. *Id.*

47. As these arrests, arsenals, and shootings vividly and tragically illustrate, there is a thriving illicit market for the sale and delivery of illegal ghost guns into New York City that arms underage persons and individuals with violent criminal histories, who would not be able to obtain a firearm through lawful means.

48. The City has taken steps to combat the growing ghost gun scourge, incurring significant costs. In addition to enacting N.Y.C. Admin. Code § 10-314, discussed above, prohibiting the possession or sale of “unfinished” frames or receivers, in February 2020 the City

²⁰ Joe Marino, Tina Moore, Mark Lungariello and Amanda Woods, *Fast-food worker obsessed with ‘ghost guns’ killed one, injured two others in Bronx shooting: cops*, N.Y. Post (May 3, 2022), available at <https://perma.cc/WTB6-Z75C>.

²¹ <https://nypost.com/2022/04/10/ghost-gun-recovered-after-nyc-shooting/>, also available at <https://perma.cc/2XCX-U3X3> (captured May 6, 2022); <https://www.fox5ny.com/news/nypd-shooter-used-ghost-gun-in-bronx-killing>, also available at <https://perma.cc/4AMW-VM3> (captured May 10, 2022).

²² *3 Men Shot As Groups Clash Outside Manhattan Recording Studio*, CBS News New York (November 17, 2021), available at <https://perma.cc/SDS5-84LZ> (captured May 17, 2022).

²³ *NYPD: 5 Shot, Including Suspect, After Fight Breaks Out As Bars Close In Upper Manhattan*, CBS News New York (Sept. 27, 2021), available at <https://perma.cc/3TE3-EEET> (captured May 17, 2022).

established an NYPD team dedicated exclusively, through long- and short-term investigations, to stopping the flow of ghost guns to New York City before they reach city streets, and to recover ghost guns illegally possessed in the City. The Major Case Field Intelligence Team, operating under the Commanding Officer of the NYPD's Field Intelligence Program, is comprised of two full-time NYPD Field Intelligence Sergeants and five full-time detectives serving as Field Intelligence Officers, and supported by three civilian criminal analysts. The Team works with federal, state, and local law enforcement and prosecutors on in-depth ghost gun investigations, search warrant executions and arrests, and conducts ghost gun-related trainings for police officers and prosecutors.

49. As ghost guns have increasingly become a major component of gun crime in the City, they have imposed significant costs and burdens on many other city institutions, including the public hospitals, which must care for New Yorkers suffering serious injuries after violent incidents involving ghost guns; district attorneys' offices, which must build and prosecute criminal ghost gun cases; and courts, which must adjudicate the cases.

50. New York City's experience reflects a national trend. According to the ATF, 45,240 ghost guns were recovered by law enforcement across the country from 2016 through 2021, including 692 in connection with homicides or attempted homicides.²⁴ Ghost gun recoveries increase each year, from 1,758 in 2016 to 19,344 in 2021.²⁵ Cities nationwide have seen similar dramatic increases in ghost gun recoveries. The 1,921 ghost guns recovered by the Los Angeles Police Department in 2021 were more than double the amount it recovered in 2020.²⁶ San

²⁴ ATF, Final Rule, "Definition of 'Frame or Receiver' and Identification of Firearms," Fed. Reg. Vol. 87, No. 80, 24652, 24656 (April 26, 2022).

²⁵ *Id.* at 27723.

²⁶ See <https://www.cnn.com/2022/02/09/us/ghost-guns-credit-cards-la-county/index.html>, available at <https://perma.cc/LMN5-TPP2> (captured May 10, 2022).

Francisco has reportedly experienced a 27-fold increase in ghost gun recoveries by police over the past five years, with more than 200 ghost guns recovered in 2021.²⁷ Other municipalities have seen comparable rises, including Philadelphia (17 in 2018, 95 in 2019, 250 in 2020), Washington, D.C. (25 in 2018, 116 in 2019, 306 in 2020), San Diego (53 in 2018, 77 in 2019, 210 in 2020), Prince George's County, Maryland (17 in 2018, 50 in 2019, 176 in 2020), and Chicago (21 in 2018, 72 in 2019, 139 in 2020).²⁸

51. Tragically, ghost guns are increasingly being put to violent or deadly use across the country. In Los Angeles, ghost guns were linked to 24 murders, eight attempted murders, 20 robberies and 60 assaults with a deadly weapon as of November 2021.²⁹ And ghost guns accounted for nearly half of the guns recovered in homicides in San Francisco in 2020.³⁰

52. Often, violent crimes using ghost guns are committed by people who would not have been able lawfully to acquire firearms and presumptively would have failed background checks because, for example, of their criminal history or age. In 2013, a man who failed a background check at a licensed gun dealer used an AR-15 ghost gun to kill five people in Santa Monica, California.³¹ In 2017, a man with a criminal record prohibiting his possession of a firearm

²⁷ See Complaint, *The People of the State of California v. Blackhawk Mfg. Grp., Inc., et al.*, CGC-21-594577, at ¶¶ 77-78 (Aug. 18, 2021); see also <https://www.cnn.com/2022/02/09/us/ghost-guns-credit-cards-la-county/index.html>, available at <https://perma.cc/LMN5-TPP2> (captured May 10, 2022).

²⁸ National Police Foundation, *The Proliferation of Ghost Guns: Regulation Gaps and Challenges for Law Enforcement*, at 15 (2021), https://www.policefoundation.org/wp-content/uploads/2021/08/NPF_The-Proliferation-of-Ghost-Guns_Final_2021.pdf, available at <https://perma.cc/6NSJ-NHVG>.

²⁹ See <https://www.cnn.com/2022/02/09/us/ghost-guns-credit-cards-la-county/index.html>, available at <https://perma.cc/LMN5-TPP2> (captured May 10, 2022).

³⁰ See <https://www.cnn.com/2022/02/09/us/ghost-guns-credit-cards-la-county/index.html>, available at <https://perma.cc/LMN5-TPP2> (captured May 10, 2022).

³¹ Alain Stephens, Ghost Guns are Everywhere in California, *The Trace* (May 17, 2019), <https://www.thetrace.org/2019/05/ghost-gun-california-crime/>.

used an AR-15 ghost gun in a California mass shooting that killed five people and injured 18.³² In 2019, a 16-year-old brought a ghost gun to school in Santa Clarita, California, and shot five students, killing two, before killing himself³³; and a convicted felon in Syracuse, New York, used a ghost gun to shoot his own nephew, a young child, in the back.³⁴ In 2020, a convicted felon used a ghost gun to shoot and injure two Los Angeles sheriff's deputies.³⁵ And in April 2021, a man with a criminal record for unlawfully carrying a concealed weapon used a ghost gun to shoot five people, killing one, in a nighttime shooting spree in San Diego.³⁶

IV. Defendants' Online Marketing and Sales of Ghost Guns

53. Each of the Defendants markets and sells ghost gun components, including unserialized "unfinished" frames or receivers, to New York City residents over the internet. All defendants sell parts and accessories through their websites that are compatible with conventional, serialized firearms and ghost guns.

54. With the click of a mouse, and with no background check, New Yorkers can and have purchased from Defendants unserialized, "unfinished" frames or receivers from which to construct operable ghost guns. Defendants ship ghost gun components straight to their New York City customers.

³² *Id.*

³³ *Id.*

³⁴ Douglass Dowty, "DA: Syracuse Man Shot 6-Year-Old Nephew with Untraceable 'Ghost Gun,'" Syracuse.Com, January 6, 2020, <https://bit.ly/2wdXnV8>.

³⁵ NBC Los Angeles, 'Ghost Gun' Kit Maker Sued Over Ambush Shooting of Two Deputies at Compton Transit Station, (Aug. 10, 2021), <https://www.nbclosangeles.com/news/local/la-countydeputies-ghost-gun-kit-maker-lawsuit-compton-metro-rail-station/2668483/>; First Amended Complaint for Damages, *Apolinar v. Polymer80, Inc.*, Case No. 21STCV29196 (Sup. Ct. Los Angeles Cty.) (filed Aug. 2021), at ¶ 9.

³⁶ CBS8, Untraceable 'Ghost Gun' Allegedly Used in Fatal Gaslamp Shooting Spree, (Apr. 23, 2021), available at <https://bit.ly/3G2Yyqp>.

A. Arm or Ally

55. Arm or Ally is a Federal Firearms License holder that operates an interactive website (armorally.com) through which consumers can purchase unserialized, “unfinished” frames and receivers and ghost gun components, as well as serialized frames, among other products.³⁷ Arm or Ally sells, has sold and will continue to sell unserialized, “unfinished” frames directly to individual customers in New York City.

56. Arm or Ally sells various Glock-compatible ghost gun kits, such as:

- Polymer80 frame kits for the PF45, PF940C, PF940V2, PF9SS, PF940SC and PF9SS models, which include the unserialized, “unfinished” frame, rails, and a finishing jig, with drill bits³⁸; and
- The P80 Compact Frame & Slide Kit, that bundles into one package a Polymer80 PF940C frame kit, a slide from American Tactical Arms, and a slide completion kit from Arm or Ally.³⁹

57. For those buying in bulk, Arm or Ally offers the Polymer80 – PF45 Pistol Frame Kit – 25 Pack, which includes 25 sets of unserialized, “unfinished” frames, rails, and the jig and drill bits.⁴⁰

58. The remaining components needed to assemble these Glock-compatible ghost guns can be purchased on Arm or Ally’s website or from other dealers.

³⁷ See <https://www.armorally.com>, also available at <https://perma.cc/QPN5-WQZQ> (captured May 20, 2022).

³⁸ <https://www.armorally.com/product-category/glock/frame-parts/glock-frames/>, also available at <https://perma.cc/3NQY-LXTA> (captured May 20, 2022).

³⁹ <https://www.armorally.com/shop/p80-compact-frame-and-slide-kit/>, also available at <https://perma.cc/B96L-6E6B> (captured May 20, 2022).

⁴⁰ <https://www.armorally.com/shop/polymer80-pf45-pistol-frame-kit-25-pack/>, also available at <https://perma.cc/7YF7-UJGP> (captured May 20, 2022).

59. Arm or Ally shipped at least 511 packages, which are believed to include packages with illegal frames and receivers, to purchasers located in New York state between January 3, 2021 and June 7, 2022, including at least 36 packages shipped to addresses in New York City during that period. Arm or Ally is known to have shipped five of those packages, over the course of 45 days, to a New York City resident who was later arrested in possession of 14 ghost guns, including 7 handguns and 7 AR-style rifles.

60. In addition, details of a recent ghost gun seizure and prosecution announced by the New York County District Attorney's Office on May 25, 2022 revealed that the New York City resident who has been indicted in connection with the ghost guns recovered—including for 29 counts of violating the City's prohibition on possession of "unfinished" frames or receivers—is alleged to have made online purchases of nine separate ghost gun components from Arm or Ally between July 2020 and October 2021, including frames or receivers and completion parts kits.⁴¹

61. Significantly, before making an online sale of unserialized, "unfinished" frames, Arm or Ally does not conduct background checks, and does not require customers to have a valid state or city license or permit.

62. On or about April 28, 2022, an undercover investigator ("UI") from the New York City Sheriff's Office, using a fictitious name, submitted an online order on Arm or Ally's website to purchase a Polymer80 PF940C unserialized, "unfinished" frame, to be delivered to an address in Manhattan.

63. Arm or Ally did not perform a background check on the UI and did not require the UI to have a valid state or City license or permit. Instead, Arm or Ally accepted the order and the frame was delivered to an address in Manhattan on or about May 3, 2022.

⁴¹ *People v. Loyola*, Indictment No. 71721-22, Statement of Facts.

64. On or about May 12, 2022, the UI from the New York City Sheriff's Office, using a fictitious name, submitted an online order on Arm or Ally's website to purchase an Arm or Ally slide parts kit, slide, and threaded barrel, as well as a Polymer 80 frame parts kit, to be delivered to the same Manhattan address to which the frame had been delivered. These components would be needed to complete the firearm the UI previously ordered. Again, Arm or Ally did not perform a background check on the UI and did not require the UI to have a valid state or City license or permit. Instead, Arm or Ally accepted the order and the items were delivered to an address in Manhattan on or about May 16, 2022.

B. Rainier Arms

65. Rainier Arms is a Federal Firearms License holder that operates an interactive website (rainierarms.com) through which consumers can purchase unserialized, "unfinished" frames and receivers and ghost gun components, as well conventional, serialized firearms, serialized frames, and ammunition, among other products.⁴² Rainier Arms sells, has sold and will continue to sell unserialized, "unfinished" frames directly to individual customers in New York City.

66. Rainier Arms sells various Glock-compatible ghost gun kits such as:

- Polymer 80 frame kits for the PF940SC, PF940V2, and PF9SS models, which include the unserialized, "unfinished" frame, rails, and a finishing jig with drill bits.⁴³

67. The remaining components needed to assemble these Glock-compatible ghost guns, can be purchased on Rainier Arms' website or from other dealers.

⁴² See www.rainierarms.com, also available at <https://perma.cc/HKV6-UGS4> (captured May 20, 2022).

⁴³ <https://www.rainierarms.com/manufacturers/polymer80/>, also available at <https://perma.cc/VM7R-4AMY> and <https://perma.cc/NY8F-SPW6>.

68. Rainier Arms shipped at least 846 packages, which are believed to include packages with illegal frames and receivers, to purchasers located in New York state between January 4, 2021 and April 28, 2022, including at least 69 packages shipped to addresses in New York City during that period.

69. Significantly, before making an online sale of unserialized, “unfinished” frames, Rainier Arms does not conduct background checks and does not require customers to have a valid state or City license or permit.

70. On or about April 27, 2022, the UI from the New York City Sheriff’s Office, using a fictitious name, submitted an online order on Rainier Arm’s website to purchase a Polymer80 PF940SC unserialized, “unfinished” frame to be delivered to an address in Manhattan.

71. Rainier Arms did not perform a background check on the UI and did not require the UI to have a valid state or City license or permit. Instead, Rainier Arms accepted the order and the frame was delivered to an address in Manhattan on or about May 2, 2022.

72. On or about May 12, 2022, the UI from the New York City Sheriff’s Office, using a fictitious name, submitted an online order on Rainier Arms’ website to purchase 24-round magazines, a Polymer80 frame parts kit, and a Polymer80 slide parts kit, to be delivered to the same Manhattan address to which the frame had been delivered. These components would be needed to complete a firearm. Again, Rainier Arms did not perform a background check on the UI and did not require the UI to have a valid state or City license or permit. Instead, Rainier Arms accepted the order and the items were delivered to an address in Manhattan on or about May 18, 2022.

73. On or about May 18, 2022, the UI from the New York City Sheriff’s Office, using a fictitious name, submitted an online order on Rainier Arms’ website to purchase a Polymer80

PF940v2 unserialized, “unfinished” frame and a slide and barrel, to be delivered to the same Manhattan address to which the prior orders had been delivered. Again, Rainier Arms did not perform a background check on the UI and did not require the UI to have a valid state or City license or permit. Rainier Arms accepted the order and the items were delivered to an address in Manhattan in two separate deliveries, on or about May 24 and May 25, 2022.

C. 80P Builder

74. 80P Builder, through its owner Salvo Technologies, Inc., is a Federal Firearms License holder that operates an interactive website (80pbuilder.com) through which consumers can purchase unserialized, “unfinished” frames, ghost gun components, and knives, among other products.⁴⁴ 80P Builder sells, has sold and will continue to sell unserialized, “unfinished” frames directly to individual customers in New York City.

75. 80P Builder sells three Glock-compatible ghost gun kits and thirteen different “custom builds” such as:

- Polymer 80 frame kits for the PF940SC and PF940SS models.⁴⁵
- Polymer 80 frame kits for the PF940SC that can be bundled with lower parts kits that include the Polymer 80 ejector and housing, Ghost bullet slide release, Ghost slide stop, 80P Builder machined pins and springs, 80P Builder mag catch, and OEM Glock trigger bar.⁴⁶
- “Custom builds” that bundle together into one purchase the items needed for a ghost gun build, and include one of the Polymer 80 frame kits for

⁴⁴ See www.80pbuilder.com, also available at <https://perma.cc/9RSG-BTWV> (captured May 27, 2022).

⁴⁵ <https://80pbuilder.com/products/frames> also available at <https://perma.cc/K5D5-B9YH> (captured May 27, 2022).

⁴⁶ <https://80pbuilder.com/pf940sc-frame> also available at <https://perma.cc/XR7E-SNHL> (captured May 27, 2022).

the PF940SC, PF940SS, and PF940V2, plus a customized slide, barrel, guide rod assembly, upper parts kit and lower parts kit.⁴⁷

76. Additional components needed to assemble these Glock-compatible ghost guns, if any, can be purchased on 80P Builder's website or from other dealers.

77. 80P Builders shipped at least 258 packages, which are believed to include packages with illegal frames and receivers, to purchasers located in New York state between April 21, 2021 and May 26, 2021, including at least 65 packages shipped to addresses in New York City during that period. Moreover, in 2021, at least four individuals arrested in New York City with ghost guns received one or more deliveries from 80P Builder, including Edison Cruz who, as described above, was arrested and charged with murder in 2022, and possession of ghost guns in 2021; a person arrested following a street encounter; a person arrested following a car stop; and a person who, after having received four deliveries from 80P Builders in 2021, was arrested in possession of three lower receivers pursuant to a search warrant executed by the Major Case Field Intelligence Team.

78. Significantly, before making an online sale of unserialized, "unfinished" frames, 80P Builders does not conduct background checks, and does not require customers to have a valid state or City license or permit.

79. On or about May 11, 2022, the UI from the New York City Sheriff's Office, using a fictitious name, submitted an online order on 80P Builder's website to purchase a Polymer 80 PF940v2 unserialized, "unfinished" frame, lower parts kit, upper parts kit, slide, barrel, guide rod, and HD fiber optic sight to be delivered to an address in Manhattan.

⁴⁷<https://80pbuilder.com/products/customs/custom-bundles> also available at <https://perma.cc/4GXR-QGSJ> (captured May 27, 2022).

80. 80P Builder did not perform a background check on the UI and did not require the UI to have a valid state or City license or permit. Instead, 80P Builder accepted the order and the products were delivered to an address in Manhattan on or about May 16, 2022.

D. Rock Slide USA

81. Rock Slide USA is a ghost gun retailer that operates an interactive website (rockslideusa.com) through which consumers can purchase unserialized, “unfinished” frames and ghost gun components, including magazines, among other products.⁴⁸ Rock Slide USA sells, has sold and will continue to sell unserialized, “unfinished” frames directly to individual customers in New York City.

82. Rock Slide USA sells various Glock-compatible ghost gun kits from Polymer80.⁴⁹ Additional components needed to assemble these ghost guns can be purchased on Rock Slide USA’s website or from other dealers.

83. Significantly, before making an online sale, Rock Slide USA does not conduct background checks and does not require customers to have a valid state or City license or permit.

84. On or about May 11, 2022, the UI from the New York City Sheriff’s Office, using a fictitious name, submitted an online order on Rock Slide USA’s website to purchase a Polymer80 PF940C unserialized, “unfinished” frame, slide, internal upper parts kit, recoil spring and guide rod, lower parts kit with trigger, and 32-round Magazine to be delivered to an address in Manhattan.

⁴⁸ See www.rockslideusa.com, also available at <https://perma.cc/7JTJ-UYMT> (captured May 20, 2022).

⁴⁹ <https://rockslideusa.com/shop/> available at <https://perma.cc/4VMT-BYNQ> (captured May 27, 2022).

85. Rock Slide USA did not perform a background check on the UI and did not require customers to have a valid state or City license or permit. Instead, Rock Slide USA accepted the order and the products were delivered to an address in Manhattan on or about May 16, 2022.

86. On or about May 21, 2022, the UI from the New York City Sheriff's Office, using a fictitious name, submitted an online order on Rock Slide USA's website to purchase an upper parts kit and a barrel to be delivered to the same Manhattan address to which the prior order had been delivered. These components would be needed to complete a firearm. Again, Rock Slide USA did not perform a background check on the UI and did not require the UI to have a valid state or City license or permit. Rock Slide USA accepted the order and the items were delivered to an address in Manhattan on or about May 27, 2022.

E. Indie Guns

87. Indie Guns is a ghost gun retailer that operates an interactive website (indieguns.com) through which consumers can purchase unserialized, "unfinished" frames and ghost gun components, including magazines, among other products.⁵⁰ Indie Guns sells, has sold and will continue to sell unserialized, "unfinished" frames directly to individual customers in New York City.

88. Indie Guns is a high volume seller of various Glock-compatible ghost gun kits, such as:

- Polymer 80 frame kits for the PF940V2, PF940C, PF940SC, PF940SS, and PF45 models.⁵¹

⁵⁰ See www.indieguns.com, also available at <https://perma.cc/K4G5-QLGG> (captured June 14, 2022).

⁵¹ <https://indieguns.com/frame-kits/> also available at <https://perma.cc/5YD9-DP6T> (captured June 14, 2022).

- A Polymer 80 “Complete Frame Assembly” kit for the PV940V2 model, bundled with a Polymer80 frame parts kit with trigger assembly and a Polymer80 magazine.⁵²
- A Polymer 80 kit for the PF940, bundled with a barrel and two 13-round magazines.⁵³

89. Additional components needed to assemble these Glock-compatible ghost guns can be purchased on Indie Guns’ website or from other dealers.

90. In fact, court filings from a recent lawsuit between Polymer80 and Indie Guns note that in July 2021, Polymer80 sold and shipped more than 13,000 unserialized “80%” Glock-compatible frame kits to Indie Guns. This shipment, for which Indie Guns was charged \$700,000 (a 30% discount from the wholesale price), has a retail value of over \$2 million, based on the price of \$150 per frame kit that Indie Guns charges on its website for most of these kits.

91. Significantly, before making an online sale, Indie Guns does not conduct background checks and does not require customers to have a valid state or City license or permit.

92. On or about May 18, 2022, the UI from the New York City Sheriff’s Office, using a fictitious name, submitted an online order on Indie Guns’ website to purchase a Polymer80 PF940V2 unserialized, “unfinished” frame, frame parts kit with trigger assembly, 17-round Magazine, and a complete slide assembly to be delivered to an address in Manhattan.

⁵² <https://indieguns.com/complete-frame-assembly-for-g17-g17l-g22-g24-g31-g34-g35/> also available at <https://perma.cc/QGA9-F3CC> (captured June 14, 2022).

⁵³ <https://indieguns.com/bundle-deal-buy-1-pf45-frame-kit-buy-1-g21-oem-45-barrel-get-2-free-g21-oem-45-13-rd-mags/> also available at <https://perma.cc/7S6B-WKK2> (captured June, 14, 2022).

93. Indie Guns did not perform a background check on the UI and did not require the UI to have a valid state or City license or permit. Instead, Indie Arms accepted the order and the products were delivered to an address in Manhattan on or about June 9, 2022.

**FIRST CLAIM FOR RELIEF
(Violation of GBL § 898-b)**

94. The City repeats, realleges, and incorporates herein the allegations of paragraphs 1 through 93 above.

95. Through the conduct described above, Defendants have contributed to the flood of illegal and untraceable guns in New York City, in violation of N.Y.C. Admin. Code § 10-314 and N.Y. Penal Law §§ 265.01(9)-(10), 265.60, 265.61, 265.63, 265.64, prohibiting the possession and sale of “unfinished” frames and receivers and ghost guns. Defendants have also aided individuals in unlawfully possessing “unfinished” frames and receivers and ghost guns in New York City. *Id.* Defendants have thereby endangered and harmed the public, undermined law enforcement efforts to prevent gun violence and other gun-related crime, and diverted scarce law enforcement resources.

96. Defendants’ conduct violates sections 898-b of the New York General Business Law (“GBL”), which declares such conduct to be a public nuisance under GBL section 898-c. The statute expressly provides that a city corporation counsel may bring a lawsuit on behalf of the municipality to enjoin and restrain violations of sections 898-b(1) or (2). GBL § 898-d.

97. GBL section 898-b provides a statutory cause of action against “gun industry members” who endanger the public through unlawful or unreasonable business practices involving firearms or firearm components or who fail to use reasonable controls to prevent those products from being possessed, used, sold, or marketed unlawfully in New York State.

98. Specifically, GBL § 898-b provides:

1. No gun industry member, by conduct either unlawful in itself or unreasonable under all the circumstances shall knowingly or recklessly create, maintain or contribute to a condition in New York state that endangers the safety or health of the public through the sale, manufacturing, importing or marketing of a qualified product.

2. All gun industry members who manufacture, market, import or offer for wholesale or retail sale any qualified product in New York state shall establish and utilize reasonable controls and procedures to prevent its qualified products from being possessed, used, marketed or sold unlawfully in New York state.

99. The statute defines “gun industry member” as any person or entity “engaged in the sale, manufacturing, distribution, importing or marketing of firearms, ammunition, ammunition magazines, and firearms accessories.” GBL § 898-a(4). Each Defendant is a gun industry member because they engage in one or more of the above.

100. “Qualified product” is defined under GBL § 898-b by reference to 15 U.S.C. § 7903(4), which in turn defines “qualified product” to include “a firearm” as defined in the federal Gun Control Act, or “a component part of a firearm or ammunition,” that “has been shipped or transported in interstate or foreign commerce.” See GBL § 898-a(6). Each Defendant sells, manufactures, imports or markets Qualified Products.

101. Under the federal Gun Control Act, a “firearm” is defined, in relevant part, as “(A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; [or] (B) the frame or receiver of any such weapon.” 18 U.S.C. § 921(a)(3).

102. Each Defendant has, and continues to sell, manufacture and market Qualified Products” in New York City and New York State.

103. Each Defendant, through the sale, manufacturing, and marketing of Qualified Products, has engaged in conduct that is unlawful and/or unreasonable under the circumstances

and has knowingly or recklessly created, maintained, or contributed to a condition in New York City and New York State that endangers the health and safety of the public.

104. Each Defendant has failed to establish and/or utilize reasonable controls and procedures to prevent its Qualified Products from being possessed, used, marketed or sold unlawfully in New York.

105. Accordingly, each Defendant has violated, and continues to violate GBL § 898-b and should be enjoined from selling illegal “unfinished” frames and receivers and ghost guns into New York City. Because Defendants’ violations have harmed the public, Defendants should also be ordered to abate the nuisance that their violations have created, contributed to, and maintained.

**SECOND CLAIM FOR RELIEF
(Common Law Public Nuisance)**

106. The City repeats, realleges, and incorporates herein the allegations of paragraphs 1 through 105 above.

107. Defendants, through their past and present business practices, create, contribute to, and maintain a public nuisance under the common law.

108. A public nuisance “consists of conduct or omissions which offend, interfere with or cause damage to the public in the exercise of rights common to all, in a manner such as to offend public morals, interfere with use by the public of a public place or endanger or injure the property, health, safety or comfort of a considerable number of persons.” *Copart Indus., Inc. v. Consol. Edison Co.*, 41 N.Y.2d 564, 568 (1977) (internal citations omitted).

109. Under New York State law, any firearm or major component of a firearm, including a ghost gun or an “unfinished” frame or receiver, that is “unlawfully possessed, manufactured, transported or disposed of,” is deemed a nuisance. N.Y. Penal Law § 400.05.

110. Each Defendant offers for sale and sells “unfinished” frames and receivers to New York City residents, shipping them directly to New York City addresses, thereby violating N.Y.C. Admin. Code § 10-314 and N.Y. Penal Law §§ 265.01(9)-(10), 265.60, 265.61, 265.63, 265.64. Each Defendant also thereby knowingly causes and aids its customers to possess “unfinished” frames and receivers in violation of N.Y.C. Admin. Code § 10-314 and N.Y. Penal Law § 265.01 (9)-(10).

111. Each Defendant knows that these sales allow the purchasers to acquire, assemble, and illegally possess untraceable ghost guns in New York City.

112. Each Defendant, through their business practices, contributes to the proliferation of illegal ghost guns in New York City, endangers the health and safety of large numbers of New York City residents; deprives New York City residents of the peaceful use of the public streets, sidewalks, and parks; undermines law enforcement efforts; increases law enforcement costs and diverts law enforcement resources; and interferes with commerce, travel, and the quality of daily life in New York City.

113. Accordingly, Defendants each substantially interfere with rights common to all and cause, contribute to, and/or maintain a public nuisance in New York City.

REQUEST FOR RELIEF

Wherefore, the City requests that the Court grant judgment, as follows:

1) Enjoining each Defendant from selling, shipping, distributing, delivering or otherwise supplying unserialized, “unfinished” frames or receivers to a New York City address or to a person or entity that Defendant knows or should know will bring, ship, sell, or otherwise transport or transfer any such unserialized, “unfinished” frame or receiver, or a gun assembled therefrom, into New York City or to a New York City address;

2) Ordering each Defendant to abate the nuisance that its violations have created, contributed to, and/or maintained, including by providing the City with all records of sales or shipments of unserialized “unfinished” frames or receivers into New York City or to a New York City address within the past five years; and

3) Providing such further relief as the Court deems appropriate.

Dated: New York, New York
June 29, 2022

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